

CERTIFIED MAIL

Craig R. Carrigan  
Carrigan Engineering  
140 Point Judith Road  
Narragansett, RI 02882

RE: **NOTICE OF VIOLATION AND SUSPENSION OF LICENSE**

File Name: Craig R. Carrigan

License No.: D3005

Dear Mr. Carrigan:

Enclosed please find a Notice of Violation and Suspension of License ("NOV"). As set forth within the NOV, you may wish to request a formal hearing. In that regard your request must be made in writing and received by the Administrative Adjudication Division (AAD) at the address listed immediately below within thirty (30) days of the receipt of this letter:

Bonnie Stewart, Clerk  
Department of Environmental Management  
Administrative Adjudication Division  
235 Promenade Street, Room 310  
Providence, RI 02908

A copy of the request for a hearing should be sent to Attorney Gregory Schultz at the Office of Legal Services, 235 Promenade Street, Room 450, Providence, Rhode Island 02903.

Correspondence other than a request for a hearing should be sent to the following address:

David Chopy, Supervising Sanitary Engineer  
Department of Environmental Management  
Office of Compliance and Inspection  
235 Promenade Street, Room 220  
Providence, Rhode Island 02908-5767

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Name: Craig R. Carrigan

RE: Notice of Violation and Suspension of License

**PLEASE BE ADVISED** that correspondence with the Office of Compliance and Inspection, including requests to arrange an informal meeting to discuss this Order and Penalty, will not be deemed a request for a formal hearing and will not protect your right to request a formal hearing.

Sincerely,

David Chopy

Supervising Sanitary Engineer

Office of Compliance and Inspection

Enclosure: Notice of Violation and Suspension of License

xc Gregory Schultz, Esq., Office of Legal Services, DEM  
Kathleen Lanphear, Administrative Adjudication Division, DEM  
Russell Chateaufneuf, Chief, Office of Water Resources, DEM  
Brian Moore, DEM, Office of Water Resources

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF COMPLIANCE & INSPECTION**

**IN RE:    Craig R. Carrigan**

**LICENSE NO. #D3005**

**NOTICE OF VIOLATION AND SUSPENSION OF LICENSE**

**A.    Introduction**

Pursuant to *Sections 5-56.1-8, 42-17.1-2(u) and 42-17.6-3 of the Rhode Island General Laws, as amended*, you are hereby notified that the Director of the Department of Environmental Management (the "Director" of "DEM") has reasonable grounds to believe that the above-named party ("Respondent") has violated certain statutes and/or administrative regulations under DEM's jurisdiction.

**B.    Facts**

- (1)    The Respondent is currently licensed by DEM as a Class III individual sewage disposal system ("ISDS") designer (License #D3005).
- (2)(a) On or about February 29, 2000 Armand Desvoyaux submitted to DEM an ISDS application (#0035-0295) for verification of groundwater depth for test holes #1 and #2 (the "Groundwater Depth Application") for property located on Spencer Avenue, in the city of Warwick, Plat 219, Lot 150 (the "Property").
- (b)    On or about March 14, 2000 the Respondent submitted to DEM an ISDS application (#0035-0295) for new building construction for the Property (the "New Building Application"). The Respondent stated on the New Building Application that a water table depth of 5.5 feet had been verified by DEM for test hole #1. DEM returned the New Building Application to the Respondent as unacceptable on March 23, 2000 for the following reason:
  - (i)    Groundwater depth for test hole #1 had not been verified by DEM.
- (c)    On or about May 1, 2000 DEM completed its review of the Groundwater Depth Application. DEM approved the water table depth for test hole #2, but disclaimed the water table depth for test hole #1.
- (d)    The New Building Application has not been resubmitted to DEM to date.
- (3)(a) On or about May 12, 2000 the Respondent submitted to DEM an ISDS application (# 0020-0205) for an alteration to an existing septic system for

property located at 61 Bayberry Road, in the town of Narragansett, Plat N-S, Lot 382 (the "Alteration Application"). DEM returned the Alteration Application to the Respondent as unacceptable on June 21, 2000 for the following reasons:

- (i) Failure to provide design plans showing existing topography;
- (ii) Revision needed to design plans to eliminate retaining walls and fill by proposing an Eljen system; and
- (iii) Revision needed to design plans to divert surface runoff away from adjacent lots.

(b) The Respondent resubmitted the Alteration Application to DEM on June 30, 2000. DEM approved the Alteration Application on August 8, 2000. The ISDS was installed and conformed by DEM on November 21, 2000.

(4)(a) On or about July 27, 2000 the Respondent submitted to DEM an ISDS application (# 0016-2002) for new building construction for property located on Mascio Drive, in the town of Johnston, Plat 27, Lot 54 (the "New Building Application"). DEM returned the New Building Application to the Respondent as unacceptable on August 30, 2000 for the following reason:

- (i) Requirement that DEM witness test hole in field.

(b) The Respondent resubmitted the New Building Application to DEM on August 31, 2000. DEM approved the New Building Application on September 11, 2000.

(c) DEM conducted a compliance inspection on the property on May 22, 2001. The inspection revealed the following:

- (i) The leachfield for the ISDS was not being constructed in the location shown on the design plans.

(d) DEM ordered the construction of the ISDS to cease and that the Respondent be contacted to resolve the matter.

(e) The Respondent resubmitted the New Building Application to DEM on May 30, 2001. DEM approved the New Building Application on June 14, 2001. The ISDS was installed and conformed by DEM on July 12, 2001.

(5)(a) On or about July 27, 2000 the Respondent submitted to DEM an ISDS application (#0016-2000) for new building construction for property located on Violet Street, in the town of Johnston, Plat 27, Lot 28 (the "New Building Application"). DEM returned the New Building Application to the Respondent as unacceptable on August 31, 2000 for the following reasons:

- (i) Failure to include appropriate fee;

- (ii) Failure to provide water table test map.
- (b) The Respondent resubmitted the New Building Application to DEM on September 5, 2000. DEM approved the New Building Application on September 11, 2000. A condition of the approval was that the ISDS be inspected by DEM prior to covering any component of the ISDS with backfill.
- (c) DEM conducted a compliance inspection on the property on August 15, 2001. The inspection revealed the following:
  - (i) The ISDS was covered with backfill prior to the inspection by DEM.
- (d) DEM ordered that the ISDS be uncovered and that the Respondent contact DEM to schedule an inspection.
- (e) DEM conducted a compliance inspection on the property on September 25, 2001 after the ISDS was uncovered. The DEM inspector approved the ISDS construction and authorized that the ISDS be covered with backfill. The ISDS was conformed by DEM on September 28, 2001.
- (6)(a) On or about October 3, 2000 the Respondent submitted to DEM an ISDS application (#0005-0595) for new building construction for property located on Botka Drive, in the town of Charlestown, Plat 22, Lot 43 (the "New Building Application"). DEM returned the New Building Application to the Respondent as unacceptable on October 30, 2000 for the following reasons:
  - (i) Failure to obtain a freshwater wetlands permit;
  - (ii) Failure to show water line on the design plans; and
  - (iii) Failure to design ISDS in accordance with approved groundwater depth.
- (b) On or about December 14, 2000 the Respondent received a letter prepared by David Duranleau of Ocean State Planners that described the findings of a field investigation to determine the presence of freshwater wetlands on the property. The letter stated that two separate freshwater wetlands were present on the property that were located southeast and northwest of the proposed ISDS.
- (c) The Respondent resubmitted the New Building Application to DEM on January 3, 2001. DEM returned the New Building Application to the Respondent as unacceptable on January 10, 2001 for the following reasons:
  - (i) Failure to obtain a freshwater wetlands permit; and
  - (ii) Failure to identify the correct plat and lot on the application.
- (d) The Respondent resubmitted the New Building Application to DEM on February 28, 2001. The Respondent also submitted a Freshwater Wetland Permit and Plan

approved by DEM on February 14, 2001 in support of the New Building Application. DEM approved the New Building Application on March 5, 2001. The ISDS was installed and conformed by DEM on July 31, 2002.

- (7)(a) On or about June 18, 2001 the Respondent submitted to DEM an ISDS application (#0132-1512) for repair of a failing ISDS for property located at 34 Rosebriar Avenue, in the town of South Kingstown, Plat 96-1, Lot 59 (the "Repair Application"). DEM returned the Repair Application to the Respondent as unacceptable on July 12, 2001 for the following reason:
  - (i) Requirement for soil evaluation and test hole to be witnessed by DEM.
- (b) The Respondent resubmitted the Repair Application to DEM on or about August 1, 2001. DEM returned the Repair Application to the Respondent on August 7, 2001 for the following reason:
  - (i) Failure to maintain four (4) foot separation from groundwater in a Critical Resource Area.
- (c) The Respondent resubmitted the Repair Application to DEM on or about August 15, 2001. DEM approved the Repair Application on August 30, 2001.
- (d) The Respondent requested that DEM perform a bottom inspection of the ISDS on October 29, 2001. The DEM inspector performed a compliance inspection on October 30, 2001 and determined that the ISDS was not ready to be inspected.
- (e) DEM performed a second compliance inspection on November 13, 2001 and authorized the completion of the work on the ISDS after the Respondent accepted the work.
- (f) The Respondent has not submitted the required documents to DEM to certify that the ISDS was constructed in accordance with the Repair Application to date and the ISDS has not been conformed by DEM.
- (8) Findings of DEM's review of each of the above referenced ISDS applications and twenty-seven (27) additional applications (collectively, the "ISDS Applications") were presented to the ISDS Designer Licensing Review Panel (the "Panel"). The Panel is appointed by the Director to review the actions of licensed designers and make recommendations to the DEM on whether a designer's license should be suspended or revoked and the length of time for the suspension or revocation. The Panel met on February 15, 2002 and reviewed the Respondent's actions regarding the ISDS Applications. The Panel recommended to DEM that the Respondent's License #D3005 be suspended sixty (60) days.
- (9) On November 4, 2002 DEM issued to the Respondent a Notice of Intent to Suspend or Revoke the Respondent's License #D3005 (the "NOI"). The NOI was issued for violating the provisions of Rhode Island General Laws, Section 5-56.1-1 et seq. and the Rules and Regulations Establishing Minimum Standards Relating

to Location, Design, Construction, and Maintenance of Individual Sewage Disposal Systems (the "ISDS Regulations") relating to the Respondent's actions regarding the ISDS Applications. The NOI afforded the Respondent the opportunity to request a preliminary hearing before DEM to show cause why DEM should not suspend or revoke the Respondent's license.

- (10) The Respondent received said NOI and requested a preliminary hearing before DEM. The preliminary hearing was held on January 22, 2003. The Respondent was advised at the preliminary hearing that DEM was limiting its inquiry for the present time to seven (7) of the ISDS Applications. The Respondent's legal counsel provided DEM a letter dated January 29, 2003 concerning the ISDS applications and additional verbal information on the Respondent's actions, which the DEM considered. Based on DEM's review of this information DEM decided not to pursue further action on one (1) of the ISDS applications.
- (11) The Respondent failed to show cause why DEM should not suspend or revoke the Respondent's License #D3005.
- (12) DEM determined that the six (6) ISDS applications summarized in the NOV provide sufficient evidence to support suspension of the Respondent's license.

C. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) R.I. Gen. Laws § 5-56.1-8 relating to the authority to suspend a designer's license where the licensed designer has demonstrated gross or repeated negligence, incompetence or misconduct in the representation of site conditions in an application to DEM, design of an ISDS, or inspection or certification of installation of an ISDS.
- (2) ISDS Regulations effective October 1, 1998 (the "ISDS 1998 Regulations"), Section SD 19.02.6 (a) relating to the requirement to design an ISDS with a minimum separation distance from groundwater in a Critical Resource Area.
- (3) ISDS 1998 Regulations, Section SD 27.00 (h)(1) relating to the requirement that the designer inspect the excavated bottom of the leachfield.
- (4) ISDS 1998 Regulations, Section SD 27.00 (i) relating to the requirement that the designer notify the DEM and stop construction if conditions are encountered during construction of the ISDS that are not in accordance with the approval issued by DEM.
- (5) ISDS Regulations effective March 8, 2000 (the "ISDS 2000 Regulations"), Section SD 2.01 (b) relating to the requirement that all applications shall be made in conformance with all provisions of the regulations.

- (6) ISDS 2000 Regulations, Section SD 2.02 (b) relating to the requirement to submit a freshwater wetland application for an ISDS design involving freshwater wetlands.
- (7) ISDS 2000 Regulations, Section SD 2.02 (c) relating to the requirement to submit basic design data with an ISDS application.
- (8) ISDS 2000 Regulations, Section SD 2.02 (d)(1) relating to the requirement to show all existing and proposed grades in the vicinity of the ISDS.
- (9) ISDS 2000 Regulations, Section SD 2.02 (d)(6) relating to the requirement to design an ISDS with a minimum separation distance from groundwater.
- (10) ISDS 2000 Regulations, Section SD 2.02 (d)(9) relating to the requirement to show all drinking water lines in the vicinity of the ISDS.
- (11) ISDS 2000 Regulations, Section SD 2.02 (d)(10) relating to the requirement to show the location of all wetlands within 200 feet of a proposed ISDS and/or alternate area.
- (12) ISDS 2000 Regulations, Section SD 2.02 (f) relating to the requirement that the applicant provide all information required by the regulations in a complete and accurate manner.
- (13) ISDS 2000 Regulations, Section SD 2.16 (a) relating to the requirement to obtain a freshwater wetlands permit or determination that the Freshwater Wetland Act does not apply to the proposed construction or new installation of an ISDS and related building or site improvements.

D. Order

Based upon the violations alleged above and pursuant to *R.I. Gen. Laws 5-56.1-8 and Sections SD 25.05(b) and SD 25.05 (g) of the ISDS Regulations*, it is hereby **ORDERED** that Designer License #D3005 issued to Craig R. Carrigan be suspended for a period of two (2) months, effective thirty (30) days from the receipt of this NOV.

E. Assessment of Penalty

- (1) Pursuant to *R.I. Gen. Laws §42-17.6-2*, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

**Four Thousand Six Hundred Dollars (\$ 4,600.00)**

- (2) The proposed administrative penalty is calculated pursuant to the *Rules and Regulations for Assessment of Administrative Penalties*, as amended, and must be paid to the Director within thirty (30) days of your receipt of the NOV. Payment

shall be in the form of a certified check or money order made payable to the “General Treasury - Water & Air Protection Program Account,” and shall be forwarded to the DEM Office of Management Services, 235 Promenade Street, Providence, Rhode Island 02908-5767, along with a copy of this NOV.

F. Right to Administrative Hearing

- (1) Pursuant to *R.I. Gen. Laws §§5-56.1-8, 42-17.1-2(u)(1), 42-17.6-4 and Chapter 42-35*, each named respondent is entitled to request a hearing before the Director or his/her designee regarding the allegations, orders and/or penalties set forth in Paragraphs B through E above. **All requests for hearing MUST:**
  - (a) Be in writing. See *R.I. Gen. Laws §§42-17.1-2(u)(1) and 42-17.6-4(a)*,
  - (b) Be **RECEIVED** by DEM's Administrative Adjudication Division within thirty (30) days of your receipt of this NOV. See *R.I. Gen. Laws Sections 42-17.1-2(u)(1), 42-17.1-2(u)(3), 42-17.6-4(a) and 42-17.7-9;*
  - (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See *R.I. Gen. Laws Section 42-17.6-4; AND*
  - (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Rule 7.00(b) of the Administrative Rules of Practice and Procedure for the Administrative Adjudication Division of Environmental Matters.
- (2) All written requests for hearing must be forwarded to:

Chief Hearing Officer  
DEM - Administrative Adjudication Division  
235 Promenade Street, 3<sup>RD</sup> Floor  
Providence, RI 02908-5767
- (3) A copy of each request for hearing must also be forwarded to:

Gregory Schultz, Esquire  
DEM - Office of Legal Services  
235 Promenade Street, 4<sup>TH</sup> Floor  
Providence, RI 02908-5767
- (4) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (5) If any respondent fails to request a hearing in the above-described time or manner with regard to any violation set forth herein, then this NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that

respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. *See R.I. Gen. Laws Sections 42-17.1-2(u)(5) and 42-17.6-4(b).*

- (6) Failure to comply with this NOV may subject each respondent to additional civil and/or criminal penalties.
- (7) This NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, please contact Gregory Schultz, DEM's Office of Legal Services at (401) 222-6607. Technical questions should be directed to David Chopy of DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 7257.

FOR THE DIRECTOR

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Dean H. Albro, Chief  
DEM Office of Compliance and Inspection

Date:

CERTIFICATION

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_ 2003  
the within Notice of Violation was forwarded to:

Craig R. Carrigan  
Carrigan Engineering  
140 Point Judith Road  
Narragansett, RI 02882

by Certified Mail, return receipt requested.

\_\_\_\_\_



## ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, WATER COMPLIANCE SECTION

File No.: OC&I/ISDS: #D3005

File Name: Craig R. Carrigan

| GRAVITY OF VIOLATION  |                                    |           |                     |                                  |         |
|---|------------------------------------|-----------|---------------------|----------------------------------|---------|
| SEE ATTACHED "PENALTY MATRIX WORKSHEETS."   |                                    |           |                     |                                  |         |
| VIOLATION No.<br>&<br>CITATION  | APPLICATION OF MATRIX              |           | PENALTY CALCULATION |                                  | AMOUNT  |
|   | Type                               | Deviation | Penalty from Matrix | Number or Duration of Violations |         |
| C (5), C (7),<br>C (12); Gross<br>negligence,<br>incompetence or<br>misconduct on<br>an ISDS design;<br>Application #<br>0035-0295                                    | Type I<br>(\$1000 Max.<br>Penalty) | Major     | \$ 1000             | 1 application                    | \$ 1000 |
| C (5), C (8),<br>C(12); Gross<br>negligence,<br>incompetence or<br>misconduct on<br>an ISDS design;<br>Application #<br>0020-0205                                     | Type I<br>(\$1000 Max.<br>Penalty) | Minor     | \$ 400              | 1 application                    | \$ 400  |
| C (3)-C (4); Gross<br>negligence,<br>incompetence or<br>misconduct on<br>an inspection or<br>certification of an<br>ISDS installation ;<br>Application #<br>0016-2002 | Type I<br>(\$1000 Max.<br>Penalty) | Major     | \$ 800              | 1 application                    | \$ 800  |
| C (4); Gross<br>negligence,<br>incompetence or<br>misconduct on<br>an inspection or<br>certification of an<br>ISDS installation;<br>Application #<br>0016-2000        | Type I<br>(\$1000 Max.<br>Penalty) | Moderate  | \$600               | 1 application                    | \$ 600  |

## GRAVITY OF VIOLATION

SEE ATTACHED "PENALTY MATRIX WORKSHEETS."

| VIOLATION No.<br>&<br>CITATION   | APPLICATION OF MATRIX                      |           | PENALTY CALCULATION |                                  | AMOUNT         |
|--|--|-----------|---------------------|----------------------------------|----------------|
|  | Type                                       | Deviation | Penalty from Matrix | Number or Duration of Violations |                |
| C (5)-C (7),<br>C (9)-C (13);<br>Gross negligence,<br>incompetence or<br>misconduct on<br>an ISDS design;<br>Application #<br>0005-0595  | Type I<br><i>(\$1000 Max.<br/>Penalty)</i> | Major     | \$ 1000             | 1 application                    | \$ 1000        |
| C (2)- C (3) ,<br>C (5), C (9); Gross<br>negligence,<br>incompetence or<br>misconduct on<br>an ISDS design<br>and inspection or<br>certification of an<br>ISDS installation;<br>Application #<br>0132-1512 | Type I<br><i>(\$1000 Max.<br/>Penalty)</i> | Major     | \$ 800              | 1 application                    | \$ 800         |
| <b>SUB-TOTAL</b>   |  |           |                     |                                  | <b>\$4,600</b> |

**TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$4,600.00**

# PENALTY MATRIX WORKSHEET

FILE NO.: OC & I/ISDS #D3005 x-ref Appl.#0035-0295 FILE NAME: Craig R. Carrigan

CITATION: Gross negligence, incompetence or misconduct on an ISDS design

VIOLATION NO.: C (5), C (7), and C (12)

| TYPE  |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> <b>TYPE I</b><br><u>DIRECTLY</u> related to protecting health, safety, welfare or environment   | <input type="checkbox"/> <b>TYPE II</b><br><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment | <input type="checkbox"/> <b>TYPE III</b><br><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment |
| DEVIATION FROM THE STANDARD   |  |   |
| THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.  |  |   |
| <p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Section 10 (a) (2) of the Rules and Regulations for Assessment of Administrative Penalties</p> <p>(A) The extent to which the act or failure to act was out of compliance. The Respondent misrepresented on the ISDS application that the groundwater depth had been verified by DEM. The groundwater depth had not been verified by DEM at the time of the application submittal.</p> <p>(G) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance. The Respondent failed to determine whether a critical design component of an ISDS (the groundwater depth) had been approved by DEM.</p> <p>(H) Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law, which the Department has the authority or responsibility to enforce. DEM did not consider any actions other than those summarized in the NOV in the assessment of the administrative penalty.</p> <p>(I) The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable. The violation was completely within the control of the Respondent. The Respondent is solely responsible for ensuring that the ISDS is designed in accordance with the ISDS Regulations.</p> <p>(J) Any other factors that may be relevant in determining the amount of a penalty. The Respondent's failure to design the ISDS in a competent and thorough manner resulted in delays in the review of the application. In addition, the groundwater depth used in the design was subsequently rejected by DEM. The application was returned to the Respondent ~3 1/2 years ago and has not been resubmitted to DEM. Had DEM not reviewed this application the ISDS would have been constructed using a groundwater depth that did not comply with the ISDS Regulations.</p> |  |   |
| ___ MINOR   | ___ MODERATE   | ___ X ___ MAJOR   |

| Penalty Matrix where the applicable statute provides for a civil penalty up to \$1000.00 |          | TYPE I                            | TYPE II        | TYPE III       |
|--|----------|-----------------------------------|----------------|----------------|
| DEVIATION FROM STANDARD  | MAJOR    | \$800-to-\$1,000<br><b>\$1000</b> | \$600-to-\$800 | \$400-to-\$600 |
|  | MODERATE | \$ 600-to-\$800                   | \$400-to-\$600 | \$200-to-\$400 |
|  | MINOR    | \$400-to-\$600                    | \$200-to-\$400 | \$100-to-\$200 |

# PENALTY MATRIX WORKSHEET

FILE NO.: OC & I/ISDS #D3005 x-ref Appl. #0020-0205 FILE NAME: Craig R. Carrigan

CITATION: Gross negligence, incompetence or misconduct on an ISDS design

VIOLATION NO.: C (5), C (8) and C (12)

| TYPE   |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> <b>TYPE I</b><br><u>DIRECTLY</u> related to protecting health, safety, welfare or environment  | <input type="checkbox"/> <b>TYPE II</b><br><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment | <input type="checkbox"/> <b>TYPE III</b><br><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment |
| DEVIATION FROM THE STANDARD  |  |   |
| THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.   |  |   |
| <p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Section 10 (a) (2) of the Rules and Regulations for Assessment of Administrative Penalties</p> <p>(A) The extent to which the act or failure to act was out of compliance. The Respondent failed to provide design plans showing existing topography.</p> <p>(G) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance. The Respondent was required to resubmit the application plan prior to approval by DEM.</p> <p>(H) Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law, which the Department has the authority or responsibility to enforce. DEM did not consider any actions other than those summarized in the NOV in the assessment of the administrative penalty.</p> <p>(I) The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable. The violation was completely within the control of the Respondent. The Respondent is solely responsible for ensuring that the ISDS is designed in accordance with the ISDS Regulations.</p> <p>(J) Any other factors that may be relevant in determining the amount of a penalty. The Respondent's failure to design the ISDS in a competent and thorough manner resulted in delays in the approval of the application.</p> |  |   |
| <input checked="" type="checkbox"/> MINOR  | <input type="checkbox"/> MODERATE  | <input type="checkbox"/> MAJOR  |

| Penalty Matrix where the applicable statute provides for a civil penalty up to \$1000.00 |          | TYPE I                         | TYPE II        | TYPE III       |
|--|----------|--------------------------------|----------------|----------------|
| DEVIATION FROM STANDARD  | MAJOR    | \$800-to-\$1,000               | \$600-to-\$800 | \$400-to-\$600 |
|  | MODERATE | \$ 600-to-\$800                | \$400-to-\$600 | \$200-to-\$400 |
|  | MINOR    | \$400-to-\$600<br><b>\$400</b> | \$200-to-\$400 | \$100-to-\$200 |

# PENALTY MATRIX WORKSHEET

FILE NO.: OC & I/ISDS #D3005 x-ref Appl. #0016-2002 FILE NAME: Craig R. Carrigan

CITATION: Gross negligence, incompetence or misconduct on an ISDS inspection

VIOLATION NO.: C (3)- C (4)

| TYPE  |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> <b>TYPE I</b><br><u>DIRECTLY</u> related to protecting health, safety, welfare or environment   | <input type="checkbox"/> <b>TYPE II</b><br><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment | <input type="checkbox"/> <b>TYPE III</b><br><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment |
| DEVIATION FROM THE STANDARD   |  |   |
| THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.  |  |   |
| <p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Section 10 (a) (2) of the Rules and Regulations for Assessment of Administrative Penalties</p> <p>(A) The extent to which the act or failure to act was out of compliance. The leachfield for the ISDS was not constructed in the location shown on the approved design plans. The Respondent also failed to notify DEM and stop construction of the work.</p> <p>(G) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance. The Respondent failed to follow the ISDS Regulations in the inspection of an ISDS. The Respondent resubmitted the application to DEM after DEM identified the violation and stopped work on the ISDS. The application was approved by DEM with the location of the leachfield shown as it was constructed in the field.</p> <p>(H) Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law, which the Department has the authority or responsibility to enforce. DEM did not consider any actions other than those summarized in the NOV in the assessment of the administrative penalty.</p> <p>(I) The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable. The violation was completely within the control of the Respondent. The Respondent is solely responsible for ensuring that the ISDS is constructed in accordance with the ISDS Regulations.</p> <p>(J) Any other factors that may be relevant in determining the amount of a penalty. The Respondent's failure to inspect the ISDS in a competent and thorough manner resulted in delays in completion of the ISDS resulting from the issuance of a suspension of the work by DEM and a redesign of the ISDS to comply with the ISDS Regulations.</p> |  |   |
| <input type="checkbox"/> MINOR  | <input type="checkbox"/> MODERATE  | <input checked="" type="checkbox"/> MAJOR   |

| Penalty Matrix where the applicable statute provides for a civil penalty up to \$1000.00 |          | TYPE I                           | TYPE II        | TYPE III       |
|--|----------|----------------------------------|----------------|----------------|
| DEVIATION FROM STANDARD  | MAJOR    | \$800-to-\$1,000<br><b>\$800</b> | \$600-to-\$800 | \$400-to-\$600 |
|  | MODERATE | \$ 600-to-\$800                  | \$400-to-\$600 | \$200-to-\$400 |
|  | MINOR    | \$400-to-\$600                   | \$200-to-\$400 | \$100-to-\$200 |

# PENALTY MATRIX WORKSHEET

FILE NO.: OC & I/ISDS #D3005 x-ref Appl. #0016-2000 FILE NAME: Craig R. Carrigan

CITATION: Gross negligence, incompetence or misconduct on an ISDS inspection

VIOLATION NO.: C (4)

| TYPE  |  |   |
|---|--|---|
| <u>  X  </u> TYPE I<br><u>DIRECTLY</u> related to protecting health, safety, welfare or environment   | _____ TYPE II<br><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment | _____ TYPE III<br><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment |
| DEVIATION FROM THE STANDARD   |  |   |
| THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.  |  |   |
| <p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Section 10 (a) (2) of the Rules and Regulations for Assessment of Administrative Penalties</p> <p>(A) The extent to which the act or failure to act was out of compliance. The Respondent authorized the backfilling of an ISDS without a cover inspection by DEM as required by the approval.</p> <p>(G) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance. The Respondent removed the fill from the ISDS as directed by DEM so that DEM could inspect the ISDS.</p> <p>(H) Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law, which the Department has the authority or responsibility to enforce. DEM did not consider any actions other than those summarized in the NOV in the assessment of the administrative penalty.</p> <p>(I) The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable. The violation was completely within the control of the Respondent. The Respondent is solely responsible for ensuring that the ISDS is constructed in accordance with the ISDS Regulations.</p> <p>(J) Any other factors that may be relevant in determining the amount of a penalty. The Respondent's failure to review the conditions of the approval in a competent and thorough manner resulted in delays in completion of the ISDS.</p> |  |   |
| ____ MINOR  | ____X____ MODERATE   | _____ MAJOR   |

| Penalty Matrix where the applicable statute provides for a civil penalty up to \$1000.00 |          | TYPE I                          | TYPE II        | TYPE III       |
|--|----------|---------------------------------|----------------|----------------|
| DEVIATION FROM STANDARD  | MAJOR    | \$800-to-\$1,000                | \$600-to-\$800 | \$400-to-\$600 |
|  | MODERATE | \$ 600-to-\$800<br><b>\$600</b> | \$400-to-\$600 | \$200-to-\$400 |
|  | MINOR    | \$400-to-\$600                  | \$200-to-\$400 | \$100-to-\$200 |

# PENALTY MATRIX WORKSHEET

FILE NO.: OC & I/ISDS #D3005 x-ref Appl. #0005-1512 FILE NAME: Craig R. Carrigan

CITATION: Gross negligence, incompetence or misconduct on an ISDS design

VIOLATION NO.: C (5)- C (7), and C (9)- C (13)

| <b>TYPE</b>   |  |   |
|---|--|---|
| <p style="text-align: center;"><u>  X  </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment</p>   | <p style="text-align: center;">_____ <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment</p> | <p style="text-align: center;">_____ <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment</p> |
| <b>DEVIATION FROM THE STANDARD</b>  |  |   |
| THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.  |  |   |
| <p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Section 10 (a) (2) of the Rules and Regulations for Assessment of Administrative Penalties</p> <p>(A) The extent to which the act or failure to act was out of compliance. The Respondent failed to obtain a freshwater wetlands permit, show a water line, and maintain proper separation distance from groundwater in an application submitted to DEM.</p> <p>(G) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance. The Respondent submitted the application despite his knowledge that a freshwater wetlands permit was required. The Respondent failed to follow the ISDS Regulations in the design of an ISDS and misrepresented or omitted information concerning the property. The Respondent was required to resubmit the application plan twice.</p> <p>(H) Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law, which the Department has the authority or responsibility to enforce. DEM did not consider any actions other than those summarized in the NOV in the assessment of the administrative penalty.</p> <p>(I) The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable. The violations were completely within the control of the Respondent. The Respondent is solely responsible for ensuring that the ISDS is designed in accordance with the ISDS Regulations.</p> <p>(J) Any other factors that may be relevant in determining the amount of a penalty. The Respondent's failure to design the ISDS in a competent and thorough manner resulted in delays in the review of the application and a redesign of the ISDS to comply with the ISDS Regulations.</p> |  |   |
| ___ MINOR   | _____ MODERATE   | _____X_____ MAJOR   |

| Penalty Matrix where the applicable statute provides for a civil penalty up to \$1000.00 |          | TYPE I                            | TYPE II        | TYPE III       |
|--|----------|-----------------------------------|----------------|----------------|
| DEVIATION FROM STANDARD  | MAJOR    | \$800-to-\$1,000<br><b>\$1000</b> | \$600-to-\$800 | \$400-to-\$600 |
|  | MODERATE | \$ 600-to-\$800                   | \$400-to-\$600 | \$200-to-\$400 |
|  | MINOR    | \$400-to-\$600                    | \$200-to-\$400 | \$100-to-\$200 |

# PENALTY MATRIX WORKSHEET

FILE NO.: OC & I/ISDS #D3005 x-ref Appl. #0132-1512 FILE NAME: Craig R. Carrigan

CITATION: Gross negligence, incompetence or misconduct on an ISDS design and ISDS inspection

VIOLATION NO.: C (3), C (5), and C (9)

| <b>TYPE</b>  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> <b>TYPE I</b><br><u>DIRECTLY</u> related to protecting health, safety, welfare or environment  | <input type="checkbox"/> <b>TYPE II</b><br><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment | <input type="checkbox"/> <b>TYPE III</b><br><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment |
| <b>DEVIATION FROM THE STANDARD</b>   |  |   |
| THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.   |  |   |
| <p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Section 10 (a) (2) of the Rules and Regulations for Assessment of Administrative Penalties</p> <p>(A) The extent to which the act or failure to act was out of compliance. The Respondent failed to maintain proper separation distance from groundwater in a Critical Resource Area in an application submitted to DEM and failed to perform a bottom bed inspection of the ISDS prior to notifying DEM to inspect the ISDS.</p> <p>(G) Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance. The Respondent failed to follow the ISDS Regulations in the design of an ISDS and failed to inspect the bottom bed of the ISDS prior to notifying DEM that the system was ready for inspection.</p> <p>(H) Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law, which the Department has the authority or responsibility to enforce. DEM did not consider any actions other than those summarized in the NOV in the assessment of the administrative penalty.</p> <p>(I) The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable. The violations were completely within the control of the Respondent. The Respondent is solely responsible for ensuring that the ISDS is designed and constructed in accordance with the ISDS Regulations.</p> <p>(J) Any other factors that may be relevant in determining the amount of a penalty. The Respondent's failure to design the ISDS in a competent and thorough manner and inspect the ISDS during construction resulted in delays in the review of the application and redesign of the ISDS to comply with the ISDS Regulations and construction of the ISDS.</p> |  |   |
| ___ MINOR  | ___ MODERATE   | ___ X ___ MAJOR   |

| Penalty Matrix where the applicable statute provides for a civil penalty up to \$1000.00 |          | TYPE I                           | TYPE II        | TYPE III       |
|--|----------|----------------------------------|----------------|----------------|
| DEVIATION FROM STANDARD  | MAJOR    | \$800-to-\$1,000<br><b>\$800</b> | \$600-to-\$800 | \$400-to-\$600 |
|  | MODERATE | \$ 600-to-\$800                  | \$400-to-\$600 | \$200-to-\$400 |
|  | MINOR    | \$400-to-\$600                   | \$200-to-\$400 | \$100-to-\$200 |